

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kobi Bordoley	Team: Squad #3	CCRB Case #: 201703705	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/02/2017 3:00 PM	Location of Incident: 2734 Jerome Avenue	Precinct: 52	18 Mo. SOL 11/2/2018	EO SOL 11/2/2018	
Date/Time CV Reported Thu, 05/04/2017 10:14 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/10/2017 10:56 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Edmundo Rivera	696	955382	052 PCT
2. LT Daniel Campbell	00000	932403	052 PCT
3. SGT Charles Cavallaro	4758	938197	052 PCT
4. An officer			052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joel Ayala	08262	954509	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Daniel Campbell	Abuse: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Charles Cavallaro	Abuse: Sergeant Charles Cavallaro questioned § 87(2)(b)	
C.LT Daniel Campbell	Discourtesy: Lieutenant Daniel Campbell spoke discourteously to § 87(2)(b)	
D.SGT Charles Cavallaro	Discourtesy: Sergeant Charles Cavallaro spoke discourteously to § 87(2)(b)	
E.POM Edmundo Rivera	Discourtesy: Police Officer Edmundo Rivera spoke discourteously to § 87(2)(b)	
F. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

## Case Summary

On May 4, 2017, § 87(2)(b) made the following complaint to IAB via telephone, which the CCRB received on May 10, 2017.

On May 2, 2017, at approximately 3:00 P.M., in the vicinity of 2734 Jerome Avenue in the Bronx, § 87(2)(b) and § 87(2)(b) were traveling in a taxi operated by § 87(2)(b) when Lieutenant Daniel Campbell of the 52<sup>nd</sup> Precinct stopped the taxi (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Edmundo Rivera, PO Joel Ayala, and Sgt. Charles Cavallaro, all of the 52<sup>nd</sup> Precinct, were in the police vehicle with Lieutenant Campbell. After initiating the vehicle stop, Lieutenant Campbell spoke to § 87(2)(b) PO Rivera spoke to § 87(2)(b) with Sgt. Cavallaro, and PO Ayala spoke to § 87(2)(b). While speaking to § 87(2)(b) Sgt. Cavallaro asked him for identification (**Allegation B: Abuse of Authority**, § 87(2)(g)). While still speaking to the passengers of the vehicle, PO Rivera, Sgt. Cavallaro, and Lieutenant Campbell allegedly called § 87(2)(b) and § 87(2)(b) “fucking idiots” (**Allegations C, D, and E: Discourtesy**, § 87(2)(g)). Soon after, the officers returned to their police vehicle, at which time § 87(2)(b) alleged that an officer said, “Get the fuck on,” and “Let these fucking idiots go” (**Allegation F: Discourtesy**, § 87(2)(g)). § 87(4-b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) provided video footage of the incident, contained in IA#7, which he recorded from his personal cellphone (06 Board Review).

## Findings and Recommendations

**Allegation A – Abuse of Authority: Lieutenant Daniel Campbell stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants was stopped by the officers.

§ 87(2)(b) said that he and § 87(2)(b) were passengers of a taxi operated by § 87(2)(b) on Jerome Avenue in the Bronx and that after stopping at a red light, § 87(2)(b) made eye contact with officers inside of an unmarked police vehicle. Approximately five minutes later, the officers in the unmarked police vehicle activated the vehicle’s lights and sirens, and § 87(2)(b) pulled over. After being pulled over, PO Ayala, Lieutenant Campbell, Sgt. Cavallaro, and PO Rivera exited their police vehicle and approached the taxi. § 87(2)(b) did not believe that the taxi made any traffic violations prior to being stopped, and none of the officers explained why the vehicle had been stopped. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)’s statement was generally consistent with § 87(2)(b) statement; however, § 87(2)(b) did not recall any of the circumstances prior to the officers stopping the vehicle, and did not have an idea as to why the vehicle was stopped. § 87(2)(b) provided a phone statement but

would not cooperate with providing a verified statement. § 87(2)(b) was unavailable and therefore did not provide a statement.

Lieutenant Campbell said that he was sitting behind the operator of the police vehicle, PO Ayala, at the time of the incident. While patrolling on Jerome Avenue, Lieutenant Campbell observed a taxi make a traffic violation, although he did not remember what specific traffic violation he observed. After the violation occurred, PO Ayala initiated the lights and sirens of the police vehicle, and the officers pulled over the taxi, which complied. There were no other reasons why the taxi was stopped other than because of the observed traffic violation. Lieutenant Campbell did not recall any conversation with the other officers present before the vehicle stop occurred, did not recall whose decision it was to stop the vehicle, and did not recall giving any supervisory commands during the entirety of the incident. He did not believe that a summons was given to the driver as a result of the incident, but was unsure why a summons was not issued. Neither the investigation nor Lieutenant Campbell had Lieutenant Campbell's memo book at the time of his interview; however upon receipt his memo book noted that the taxi was stopped for going through a red light (05 Board Review).

PO Ayala said that he was the operator of the police vehicle, and observed the taxi go through a steady red light, at which time he initiated his vehicle's lights and sirens and pulled over the vehicle for committing the traffic violation. PO Ayala warned and admonished the driver for committing the traffic violation, and that warning was in lieu of a summons. His memo book noted that the vehicle was stopped for going through a red light (05 Board Review). PO Rivera's

§ 87(2)(g) believed that Lieutenant Campbell was the operator of the vehicle, and did not recall where he was sitting or if other officers were present during the incident. PO Rivera did not prepare a memo book entry for the incident (05 Board Review).

Sgt. Cavallaro said that while he did not recall where in the vehicle he was sitting or who was operating the police vehicle, he observed a taxi in front of him driving "erratically," which he described as driving quickly and moving back and forth across the center line of the road, going into the lanes on the other side. Apart from those actions, there were no other ways in which the driver was driving erratically. Because the vehicle was driving in an erratic manner, the officers collectively decided to stop the vehicle. Sgt. Cavallaro could not recall if there were any other reasons why the vehicle was stopped other than the erratic driving, and was unsure what was said between the officers before the vehicle stop happened, or whose specific decision it was to stop the vehicle. Sgt. Cavallaro recalled that an officer warned and admonished the driver of the vehicle for the way he was driving. Sgt. Cavallaro believed that discretion was used to not give the taxi driver a summons for his driving, but said that there was no discussion between the officers about whether or not a summons should be given. Sgt. Cavallaro did not prepare a memo book entry for the incident (05 Board Review).

§ 87(2)(g)

§ 87(2)(g)

**Allegation B – Abuse of Authority: Sergeant Charles Cavallaro questioned § 87(2)(b)**

It is undisputed that Sgt. Cavallaro questioned § 87(2)(b) by asking him for identification.

§ 87(2)(b) said that after approaching the stopped vehicle, Lieutenant Campbell, Sgt. Cavallaro, and PO Rivera attempted to engage him and § 87(2)(b) in conversation. Sgt. Cavallaro and PO Rivera asked him where he was coming from, where he was going, and if they could see his ID. (This allegation was only pleaded against Sgt. Cavallaro as the higher ranking officer.) Lieutenant Campbell asked these same questions to § 87(2)(b) and no officer asked any other questions. § 87(2)(b) did not allege that this occurred; therefore, a question allegation was not pleaded on his behalf). Neither § 87(2)(b) nor § 87(2)(b) responded to the officers, and each remained silent. While the officers were speaking with him, § 87(2)(b) recorded them using his cellphone.

§ 87(2)(b) said that the officers who approached the vehicle attempted to engage him in conversation; however, he told Lieutenant Campbell to talk to the taxi driver and not to him. § 87(2)(b) was listening to music during the incident and was trying not to pay attention to what the officers were doing. Lt. Campbell asked him where he was going, where he got picked up, what his name was, if he spoke English or could understand him, and if he had "a paper." (Because § 87(2)(b) did not cooperate with providing a verified statement, no allegation of question regarding immigration status was pleaded.)



Williams\_Snaglt.mp4

§ 87(2)(b) provided the video above which captures Sgt. Cavallaro asking § 87(2)(b) for ID five times (07 Board Review).

Sgt. Cavallaro said that after the vehicle had been stopped, he approached the back passenger side of the vehicle and asked § 87(2)(b) where he was headed, and where he got picked up. He did not recall if he asked him anything else or spoke to him further. Sgt. Cavallaro asked these questions as part of a standard traffic stop procedure, and to confirm that everything was okay in the vehicle and that nobody was in danger. Sgt. Cavallaro was not suspicious of the people in the back seat, and noted that § 87(2)(b) ignored his questions and remained silent. This did not make Sgt. Cavallaro suspicious of anything, as he assumed that if someone was engaged in criminal activity, he or she would speak quickly and try to convince the officers to leave.

PO Rivera said that after approaching the vehicle, he interacted with § 87(2)(b) and asked him where he was going, if everything was okay, and if there was an emergency. § 87(2)(b) did not respond to any of the questions, so PO Rivera repeated them. However, § 87(2)(b) did not respond to the questions. PO Rivera did not interact with any other individuals in the vehicle.

Lieutenant Campbell said that he only spoke to § 87(2)(b) and did not recall what the other officers were saying to § 87(2)(b) but recalled that neither of the civilians in the back seat of the vehicle responded to Sgt. Cavallaro or PO Rivera when spoken to. PO Ayala said that he only spoke to § 87(2)(b) and while he knew that the other officers interacted with the passengers of the vehicle, he did not know what they spoke about or if they asked the passengers any questions.

The rule set forth in People v. DeBour for evaluating the constitutionality for police-initiated street encounters applies with equal force to traffic stops. (People v. Garcia, 20 N.Y.3d 317, 983 N.E.2d). When an officer asks an individual to provide identification during a police-initiated encounter, the request for information must not be done on mere "whim or caprice." While the request need not be based on a suspicion of criminality, it must be done for an articulable, objective, credible reason. (People v. McIntosh, 96 N.Y.2d 521, 755 N.E.2d) (10-11 Board Review).

§ 87(2)(g)  
[REDACTED]

**Allegation C – Discourtesy: Lieutenant Daniel Campbell spoke discourteously to § 87(2)(b)**

**Allegation D – Discourtesy: Sergeant Charles Cavallaro spoke discourteously to § 87(2)(b)**

**Allegation E – Discourtesy: Police Officer Edmundo Rivera spoke discourteously to**

§ 87(2)(b)

§ 87(2)(b) said that while the officers were speaking with him and § 87(2)(b) he was using his cellphone to record the interaction. However, soon after he began recording, his phone ran out of memory, and abruptly turned off. After his phone powered off, the officers changed their demeanor, and Lieutenant Campbell, Sgt. Cavallaro, and PO Rivera began saying to both § 87(2)(b) and § 87(2)(b) “You guys can’t hear us? You guys can’t hear us? You must be fucking idiots, because they don’t hear us.” While speaking to § 87(2)(b) and § 87(2)(b) Sgt. Cavallaro and PO Rivera interchanged the words “fucking idiot” with “fucking retarded.”

§ 87(2)(b) said that he did not recall if the officers used any profanity, rude language, or said “fucking idiots” or “fucking retards” during the incident, and reiterated that he was listening to music at the time and trying to not pay attention to what the officers were doing. (Because § 87(2)(b) did not allege that officers used any discourteous language when speaking to him, no allegation was pleaded on his behalf.)

Lieutenant Campbell denied that he or any other officer called individuals in the vehicle “fucking idiots” or “fucking retarded” at any point in the incident, and denied using any profanity.

Sgt. Cavallaro not recall anything the other officers said during the incident, to the passengers or the driver. Sgt. Cavallaro denied that he or any other officer called anyone in the vehicle “fucking idiots” or “fucking retarded,” or used any profanity during the incident.

PO Rivera denied ever calling § 87(2)(b) or other individuals in the vehicle a “fucking idiot,” a “fucking retard,” or using any profanity while speaking to § 87(2)(b) or other individuals, and never observed or heard any officers use that kind of language while speaking to the individuals in the vehicle.

PO Ayala did not recall if he spoke with any of the passengers and denied that any officer called those inside the vehicle “fucking idiots” or “fucking retarded,” or used any profanity at any point during the incident.

§ 87(2)(g)

**Allegation F – Discourtesy: An officer spoke discourteously to § 87(2)(b)**

§ 87(2)(b) said that after the officers walked away from the taxi, he heard one of the officers say, “Get the fuck on,” and “Let these fucking idiots go,” although § 87(2)(b) could not tell which officer made the statement, and was not looking at them. § 87(2)(b) did not hear an officer make these statements.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint § 87(2)(b) has filed or been involved in, and the first CCRB case in which § 87(2)(b) and § 87(2)(b) have been involved (03 Board Review).
- PO Rivera has been a member of the NYPD for four years and has been the subject of seven other complaints, totaling 32 allegations including seven substantiations. In CCRB 201607995, three allegations of a vehicle stop and three allegations of a vehicle search were substantiated with a final disposition of formalized training and in CCRB 201605007, an allegation of a stop was substantiated with a final disposition of Command Discipline A.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

- Sgt. Cavallaro has been a member of the NYPD for 12 years and has been the subject of 17 other CCRB complaints, totaling 48 allegations including seven substantiations. In CCRB 201607995, three allegations of a vehicle stop and three allegations of a vehicle search were substantiated with a final disposition of formalized training and in CCRB 201605007, an allegation of a stop was substantiated with a final disposition of Command Discipline A.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

- Lieutenant Campbell has been a member of the NYPD for 14 years and has been the subject of 25 other CCRB complaints totaling 70 allegations including three substantiations. In CCRB 200607138, a threat of arrest was substantiated, the final disposition of which was no disciplinary action, and in CCRB 201004296, a frisk was substantiated, the final disposition of which was Command Discipline B.

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) was offered mediation but rejected it, as he did not believe that the officers would be truthful.
  - Neither § 87(2)(b) nor § 87(2)(b) has any conviction history (01 Board Review)
  - On November 27, 2017, a FOIL request confirmed that no Notices of Claim were filed in relation to this incident (02 Board Review).
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Squad: 3

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date